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February 23, 2009

Testimony of Aaron Bayer, Chair of Connecticut Legal Services On Behalf of Connecticut Legal Services, Greater Hartford Legal Aid, and New Haven Legal Assistance Association Before the Appropriations Committee of the Connecticut Legislature

Members of the Committee:

Thank you for this opportunity to address the crisis in legal aid funding in Connecticut. My name is Aaron Bayer; I'm a partner at the firm of Wiggin & Dana, and the Chair of the Board of Connecticut Legal Services. With me are the chair of Greater Hartford Legal Aid's board, Diane Whitney of Pullman & Comley, and the chair of New Haven Legal Assistance's Board, Attorney Diane Polan.

The non-profit legal aid agencies we chair are an incredibly effective, coordinated network that provides legal help to very poor people in crisis. Every social service agency in the state relies on us to help their clients – they send us cases when their clients need a lawyer to solve their problem. Together we have been handling over 15,000 cases each year. The staff are highly skilled, perennially underpaid compared to other public service lawyers, and passionate about their work and the needs of their clients.

You are hearing today from many important causes. We recognize that you would like to fund them all, and that you can't. I want to suggest that our situation is, unfortunately, quite distinctive – for three reasons.

First, legal aid is in crisis today not just because of the economic downturn, a situation many organizations face, but because the specific structure chosen by Connecticut to fund legal aid – Interest on Lawyers' Trust Accounts, or IOLTA -- has collapsed. Having put that structure in place, the state should help to address the crisis caused by its collapse. As you will hear shortly, the legal aid organizations have taken dramatic steps themselves to cut costs and raise funds, but they cannot do it without your help.

Second, this is not really about funding legal aid organizations; it is about funding services to help the poorest in our state to help themselves. This legislature has never balanced the budget on the backs of those most in need.

Third, cutting back on legal aid funding will not save the state money. Legal services lawyers are highly cost-efficient in helping to keep people in their jobs, preventing them from losing their homes, getting them federal benefits to which they are entitled, etc. They help prevent people from falling into the safety net for the desperately poor that is largely funded by the state and is far more costly.



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The Collapse of IOLTA Funding. Connecticut allocates very little state funding to legal services compared to many other states. Twenty years ago, the legislature established IOLTA to be the primary funding mechanism for legal services in Connecticut. Lawyers hold money for clients in real estate and other transactions. Those funds are held for too short a time to be worth the expense of setting up individual accounts, so under the IOLTA system, the interest goes to fund legal services. IOLTA has accounted for two-thirds of all funding for legal services in our state. But now that funding has evaporated because there are so few real estate transactions taking place and because interest rates on most IOLTA accounts have plummeted below 1%, often much lower than that.

As a result, IOLTA revenues have dropped 80% -- from an annual rate of \$20 million to a current annual rate of \$4 million. In response, the Connecticut Bar Foundation (which receives and grants the IOLTA funds) has cut grants to our programs by 50% -- a figure that would have been worse had the CBF not decided to draw down its reserve funds to zero to help keep legal services running. The resulting budget hole for legal services is \$9 million statewide.

So our funding hasn't just declined, as it has for many other non-profits; it has collapsed, not just because of the current economic crisis but also because of the decision many years ago to rely primarily on IOLTA to fund legal aid in Connecticut.

Our Efforts to Cut Costs and Raise Revenues. Faced with this enormous deficit, our programs have been doing everything possible to keep afloat.

We have ramped up our private donation campaigns, and have seen some significant increases from law firms and our other donors. We are in the process of going to virtually every foundation and United Way in the state, asking those who already funded us to increase their support, and those who have not previously provided funding to start now. We are seeing success in all of these areas. But law firm business is down and foundations have lost 1/3 of their assets. If we are very successful in our fundraising, we may collectively raise \$750,000 or even a little more -- but that's not going to close this budget gap or avoid extensive layoffs.

And so our programs have put dramatic cost reductions into place. All of our programs have cut health care benefits and costs and drastically reduced personnel costs. There have been a small number of layoffs in some of the programs, and in every program our already underpaid staff members have voluntarily agreed to take huge reductions in pay -- 20% and in some cases substantially larger cuts -- to try to avoid more sweeping layoffs and keep legal services available to our clients in need.

Even these draconian cuts go only half-way to closing our budget gap. Without additional funding, we are facing huge layoffs -- as much as 1/4 of our remaining staff -- if we cannot close the rest of the gap by July. The loss in services for low-income people in Connecticut would be devastating in this time of rising need.

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The Impact on the Poor. Not allowing the legal aid to collapse isn't fundamentally about helping some effective and generous people to keep their jobs. It is about helping very low-income people at a time of increasing need. Our income eligibility criteria for our clients are based on the federal poverty guidelines. For example, a family of four is generally eligible for legal services only if it earns less than \$27,563. The income limit for an individual is \$13,538. These are people who certainly cannot afford to pay for legal help.

They come to legal services in desperate straits or are referred to us by social service agencies that recognize that their clients have legal problems that can only be resolved with a lawyer's help. They are battered women in shelters who are too fearful to go to work and have no idea that they can get a restraining order or other protections. They are employees who have not been paid the wages they are due, disabled individuals who don't know they are entitled to federal benefits that will help them survive or are having trouble assembling the medical evidence required, tenants who face eviction because of foreclosures but have a legal right to stay in their homes, parents of children with problems who are entitled to stay in school and get help but don't know it.

As it is, all three of our programs must turn away people just like this every day, because our staffing is limited and there are only so many hours in a day. And in this economy there are more people in need all the time. If our organizations lay off another 30 or 40 employees now, the impact on the poor in our state will be widespread and grave, beginning with the thousands of people who won't get help.

The Cost to the State of Not Funding Legal Aid. In the long run, cutting legal aid won't save the state money. On the contrary, appropriating \$9 million for legal aid is an efficient way of protecting the poor and avoiding more costly state-funded services. For instance, legal aid attorneys help get individuals off state welfare and medical assistance and onto federal disability and federally-subsidized medical assistance. More broadly, legal aid lawyers stabilize people's lives so they can work and take care of themselves. They help paying tenants from being evicted after a foreclosure, and keep people in their homes and out of homeless shelters and domestic violence shelters. They help the elderly who are the victims of consumer scams. They help kids get back into school.

For many people seeking help from legal aid, not getting help will mean the destabilization of their lives -- many of them will end up unemployed, homeless, with children in crisis, using emergency rooms as their source of medical care. The programs they tap into at that point will cost the government, and society, far more money than the salary of a legal aid attorney help them help themselves.

Legal aid lawyers also help bring to practical reality laws that the state and federal governments enact to benefit the poor. To give just one recent example, a provision in one of the 2008 bailout bills provided protection to tenants in good standing from eviction when their homes are foreclosed. But the only way any of them knew about this provision was from advice provided by legal services lawyers, who not only helped keep Connecticut tenants in their homes but ultimately persuaded Fannie Mae to halt evictions nationwide that would violate this provision.

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One of the staff lawyers who filed the first motions to enforce these federal laws on behalf of tenants has already been laid off as a result of the current funding crisis.

We ask you to recognize the incredible work for low-income people, and for Connecticut, these legal aid programs are providing on behalf of us all. We ask you to provide a remedy for what we hope is a temporary collapse of the funding source established by the legislature so long ago. Help us to avoid shutting our doors on people in need.

Thank you. We'd be happy to answer any questions you may have.

Hartford Courant

MONDAY, DECEMBER 29, 2008

OUR VIEW

AID FOR LEGAL AID

Connecticut's legal-aid lawyers, defenders of the poor, need a champion of their own now — as do so many agencies helping those who are down on their luck.

Legal aid's chief source of funding is drying up. The three biggest providers are talking about letting go up to one-third of their 150 staff members if they can't find a way to cover their deficits by midsummer.

The staff at one of them, Connecticut Legal Services, is taking a 20 percent pay cut for 2009 to try to save jobs; their managers are taking cuts of up to 35 percent.

FUNDS ARE DRYING UP

» As more people are needing help

The funding cuts come at the worst time, as the bad economy brings in people desperate to keep their homes, get paid for their work, and get the Medicaid and other benefits they're entitled to.

For example, legal-aid agencies serving Greater Hartford and New Haven recently took up the cases of tenants being evicted from buildings in foreclosure even though the tenants were current on their rent — and even though U.S. Sen. Christopher J. Dodd had insisted on language protecting renters in good standing in the \$700 billion bank bailout bill. Thanks to the legal-aid attorneys, mortgage giant Fannie Mae changed its eviction policy and let the good tenants stay.

Legal aid is funded in large part in Connecticut by interest on money held in escrow for people buying homes. Plunges in home sales and interest rates have cut those funds for the three biggest agencies from \$21 million in 2007 to an estimated \$4 million in 2009. That's the lowest since 1995; adjusted for inflation, the agencies' funding has never been this low.

How to keep their doors open? The state, which contributes a modest amount to the legal-aid budget, is unlikely to ride to the rescue because it is not in great shape itself. It faces a \$3 billion budget deficit next fiscal year.

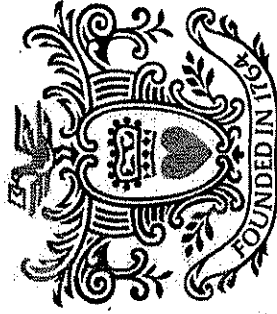
So the legal-services agencies, like so many other worthy services, will have to cast wide their fundraising nets to include foundations and the federal government, among others. Though recessions are not the best times to raise taxes, the legislature might consider temporary fees to help out, such as boosting the yearly lawyer occupation tax of \$450.

Connecticut's legal community already does a lot to help. Volunteers take 1,000 legal-aid cases a year for free. But they can't handle the 15,000 cases that legal-aid agencies do. Nor do volunteers have the deep experience in, for example, Medicaid issues, that legal-aid lawyers have.

Legal-aid lawyers have done their part by sacrificing a large chunk of their modest salaries to keep serving the poor. But that won't be enough to get them through 2009. Like their clients, they'll need help.

Hartford Courant

AMERICA'S OLDEST CONTINUOUSLY PUBLISHED NEWSPAPER
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TUESDAY
12.16.08 >>1 *

Renter Wins Fannie Mae Fight

By **KENNETH R. GOSSELIN**
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What began with a single mother in Hartford fighting her eviction has led to a policy change by Fannie Mae allowing renters to remain in their homes after their landlords are foreclosed on, a switch that could help thousands of renters across the country.

Fannie Mae, one of two giant mortgage companies taken over by the federal government, said Monday it will end eviction proceedings against renters if they are current with their payments. Fannie Mae had a formal policy of evicting tenants following foreclosures against their landlords.

Legal Aid lawyers in Hartford — and

subsequently, New Haven — began fighting tenant evictions by Fannie Mae in Housing Court after Congress passed a financial market bailout bill containing provisions protecting tenants in good standing from eviction.

Housing advocates praised Fannie Mae's reversal Monday and said it was inspired by the case of Evelyn Colon, a mother of three who lives in an apartment on Marshall Street in Hartford's West End. Colon had been served with eviction papers, even though she is current with her rent payments, her lawyers say.

"There is no question what the folks in Connecticut did took it the extra step," said Danilo Pelletiere, research director at the National Low Income Housing Coalition in Washington, D.C.

'I didn't know it would get this big.'



When Fannie Mae moved to evict Evelyn Colon from her foreclosed Hartford apartment, the single mother fought back. On Monday, the mortgage

giant said it would allow Colon and thousands like her across the country to stay in their homes.

CITY, A14

City Renter's Fight Leads To Fannie Mae Policy Change

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"They made the argument stick."

Fannie Mae would not say Monday whether the new bailout legislation compelled it to change its policy. A spokesman noted that the tenant eviction policy had been under review for "several months." The bailout bill passed in early October.

In November, Fannie Mae and Freddie Mac temporarily suspended foreclosure sales and tenant evictions during the holidays. Fannie Mae's new tenant eviction policy will go into effect Jan. 9.

"Tenants caught in foreclosures are under stress and strain," Fannie Mae spokesman Brian Faith said. "Putting this policy in place will let them stay."

Ever since Colon's story became public, Fannie Mae has maintained that it tries to work with tenants who are displaced from foreclosed properties.

Colon said Monday she had no idea that her case could have national implications.

"I knew it would help other people," Colon said. "I didn't know it would get this big." The bailout legislation applies to federal agencies that control mortgages. Legal Aid lawyers argued that provisions in the law pertained to both Fannie Mae and Freddie Mac because they were taken over by the federal government.

The policy change — Freddie Mac said Monday it expects to follow suit — will have vast implications for renters because Fannie Mae and Freddie Mac guarantee or own half of the country's residential mortgages, which apply to buildings that house one to four families.

Fannie Mae said Monday that the change could affect 4,000 renters almost immediately. Housing

advocates say the number could rise much higher if the foreclosure crisis deepens. Connecticut is better off than many states, but foreclosures are rising.

"We're very gratified that Fannie Mae has decided to do the right thing," said David A. Pels, a staff attorney at Greater Hartford Legal Aid in Hartford.

However, Pels said, Fannie Mae so far has not offered

Colon a lease for her three-bedroom apartment, where she continues to live.

Housing experts say it is easier to sell a foreclosed property without tenants. But community housing advocates say vacant buildings can contribute to the decline of neighborhoods.

Stephanie D'Ambrose, the Greater Hartford Legal Aid attorney representing Colon, said the challenge was strong

on legal and moral grounds.

"Why should those people who've paid their rent lose their homes?" D'Ambrose said. "There was something fundamentally unfair about that."

The fight that began in Hartford gathered momentum in recent weeks in New Haven. Legal Aid attorneys there adopted the argument against evictions in two cases and took it a step further by threatening

a class-action lawsuit against Fannie Mae on behalf of renters nationwide.

On Sunday, Fannie Mae sent a letter to New Haven Legal Aid attorneys informing them of the change in policy.

The policy change comes as Legal Aid staffing is being cut because sources of funding are drying up. D'Ambrose, at the forefront of the Colon case, faces a layoff in March.

U.S. Sen. Christopher Dodd,

D-Conn., praised the policy change, which came four weeks after Dodd wrote to the federal housing agency overseeing the mortgage giants, urging them to comply with a new federal law that Dodd co-authored.

"This decision will bring great relief to thousands of renters who were in the wrong place at the wrong time and were being forced from their homes as a result," Dodd said.

